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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1946.

No. 440

ILLINOIS COMMERCE COMMISSION, et al., etc.,
*Petitioners,*

vs.

GREAT LAKES ELEVATOR CORPORATION, et al.,
*Respondents.*

## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.

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## STATEMENT.

This petition is filed on behalf of Daniel F. Rice & Company, a partnership (hereinafter referred to as "Rice"), for the issuance of a writ of certiorari to review the judgment of the United States Circuit Court of Appeals for the Seventh Circuit, reversing orders of the District Court of the United States for the Northern District of Illinois, Eastern Division, which granted motions to strike and dismiss a bill of injunction seeking to restrain members of the Illinois Commerce Commission, the Attorney General of Illinois and the Rice defendants from proceeding to hearings in a certain cause instituted by Rice before the Illinois Commerce Commission.

On July 28, 1944, Rice, a grain commission merchant, on behalf of its customers as grain producers, dealers and

processors, filed a complaint with the Illinois Commerce Commission[1] against public grain warehousemen in the Chicago terminal area. These public warehouses are defined as, and are, public utilities under the state statute.

The Rice complaint charged these warehousemen with maintaining excessive, unreasonable and discriminatory rates and practices, with operating inadequate and unsafe facilities and service, with abandoning public service at will, and with numerous violations of specific state statutory provisions and of a constitutional requirement. The relief prayed was an investigation, hearings and the entry of orders and directives which would:

1. Fix and establish just, reasonable, non-discriminatory and non-preferential rates and charges for the public storage of grain.
2. Prohibit and eliminate discriminatory practices effected by warehousemen to their own advantage, and in discrimination against the public, such as:
   a) Mixing grain in storage so as to retain for the warehouseman's own use the highest quality grain, while delivering to public storers the very bottom of the contract grade.
   b) Trafficking in transit billing or arbitrarily withholding desirable billing from public storage customers.
   c) Manipulating and rebating storage charges to effect grain sales and preferences.
   d) Manipulating the use of preferred storage space so that public storers of grain are obliged to pay the highest insurance rates.
   e) Delaying the loading out of grain to further the warehouseman's own sales—or prevent the removal from storage of public grain paying excessive storage charges.
3. Enforce the state constitutional prohibition against public warehousemen occupying the dual and conflict-

[1] An administrative board established under the Illinois Public Utility Act—*Ill. Rev. Stats.* (1945) Ch. 111-⅔, Secs. 1-84—with comprehensive regulatory powers over public utilities in the state.

ing positions of public grain warehousemen and at the same time grain dealers and merchandisers in direct competition with their storage customers.

4. Prescribe and establish reasonable, safe and adequate public grain warehouse service and facilities.
5. Prevent the unwarranted abandonment of public grain warehouse service and facilities without commission approval.
6. Enforce the state statutory provisions requiring the prior approval of the commission before:
   a) Securities are issued.
   b) Financial, operating and other similar contracts are entered into between the public warehouse and its affiliates.
   c) Contracts are entered into with other utilities or agreements made for the sale, lease or transfer of warehousing properties, or diversion of funds.
7. Enforce the state provision requiring a state license for public grain warehouses operating within the state. (Rec. 16-24)

The Rice complaint to the Illinois Commission joined the Board of Trade of the City of Chicago as a defendant, to the end that the improvements sought in warehousing practices could be in part achieved through Board of Trade rules.[2]

A motion to dismiss the proceedings was filed with and denied by the commission, and the cause set for hearings commencing October 24, 1944. (Rec. 25-8) Thereupon, several of the warehousemen who possess licenses issued under the United States Warehouse Act filed a bill in the District Court of the United States, to enjoin: a) the members of the commission from conducting hearings or entering orders in the cause, b) the Attorney General of Illinois

[2] The Board of Trade sought an injunction in a separate proceeding. We are also seeking review of the Court of Appeals' judgment in that companion case by separate petition simultaneously filed in *Board of Trade of the City of Chicago* v. *Illinois Commerce Commission, et al.*

from instituting any proceedings against the warehousemen for alleged violation of state statutes, and c) Rice from further prosecuting its complaint. The injunction was sought on the ground that the federal government, by the United States Warehouse Act (Tit. 7 U.S.C., Sec. 241 *et seq.*) and the Commodity Exchange Act (Tit. 7 U.S.C., Sec. 1 *et seq.*) has "preempted and occupied the field of regulation" over federally licensed public warehouses, to the "exclusion of any similar regulation" by Illinois. The validity of state authority was attacked on the ground that federal licensed warehouses were subject "solely to regulation" by the federal government. (Rec. 7, 8)

Motions to strike the complaint and dismiss the proceedings were filed by the Attorney General of Illinois and by Rice. (Rec. 36-48) Such motions were allowed and an order entered on June 26, 1945, dismissing the complaint. The District Court found that:

1. The United States Warehouse Act is not a utility regulatory act, but a limited and circumscribed exercise of federal control over warehousemen who voluntarily seek and obtain a federal license.
2. The federal act does not authorize the exercise of affirmative regulatory authority over the specific issues raised by the Rice complaint, nor does it permit the grant of relief sought before the state commission.
3. State regulation over federal licensed warehouses has not been preempted, excluded or superseded. (Rec. 88-93)

Appeals were taken to the Circuit Court of Appeals for the Seventh Circuit, and on June 7, 1946, that court reversed the District Court, with directions to overrule the motions to strike the complaint.

## Jurisdiction.

The judgment of the Circuit Court of Appeals for the Seventh Circuit sought to be reviewed was entered on June 7, 1946. (Rec. 106) The jurisdiction of this court is invoked under Section 240 of the Judicial Code of the United States, as amended. (Tit. 28 U.S.C., Sec. 347) The validity of provisions of the Illinois Public Utility Act are attacked on the ground of alleged repugnance to federal statutes.

The federal statutes involved are the United States Warehouse Act and Section 5a(7) of the Commodity Exchange Act, both set forth in Appendix A (*infra* 23-32). The state act involved is the Illinois Public Utility Act (Ill. Rev. Stats. (1945) Ch. 111⅔). The state act concededly provides expressly and in detail for comprehensive utility regulation of warehousing rates, practices, services and financial transactions.

## Questions Presented.

1. Is the comprehensive state utility regulation of public grain warehousemen with respect to rates, practices, services and affiliate, securities and financial transactions in irreconcilable conflict with the provisions and limited control of the United States Warehouse Act, as enacted in 1916 and finally amended in 1931, or with the Commodity Exchange Act?

2. Are public grain warehousemen performing public utility services in Illinois completely exempt and immune from state regulation, and subject exclusively and solely to federal control because they have applied for and received a permissive or voluntary federal license?

3. Did the Circuit Court of Appeals for the Seventh Circuit err in holding:

a) That state authority and control may be invalidated and superseded by reason of federal regulatory authority implied and not expressly delegated.

b) That the state's comprehensive rate making power over public grain warehousemen has been superseded and that the federal agency has authority to determine rates.

c) That the state's comprehensive authority to order and direct the elimination of discriminatory practices by public grain warehousemen has been superseded.

d) That the state constitutional prohibition against a warehouseman occupying the position of public trust as a public warehouseman, and at the same time the conflicting position of a merchandiser and dealer in grain is invalid.

e) That the affirmative state regulatory authority which provides for safe and adequate warehousing service and facilities and prevents the unwarranted abandonment of such service, has been superseded as in direct conflict with any authority over such grain warehouses delegated by Congress to a federal agency.

f) That the state requirements with respect to commission approval of contracts with affiliates, with other public utilities, and approval before securities may be issued cannot be exercised over public grain warehousemen, on the ground that the Secretary of Agriculture "has implied authority" to deal with such matters.

4. Did the Circuit Court of Appeals for the Seventh Circuit err in reversing the order of the District Court of the United States for the Northern District of Illinois, Eastern Division.

## Reasons for Granting the Writ.

The questions of law here presented are of great public importance. Federal questions of substance are presented which have not heretofore been determined by this court.

This court in the historic case of *Munn* v. *Illinois*, 94 U.S. 113 (1876), sustained the power of the Illinois legislature to fix public warehouse charges and regulate the business of public warehouses. That decision enabled the establishment of comprehensive state utility regulation of public warehousemen, as well as electric, gas, transportation and other forms of utilities. At present there are forty-one states that regulate warehouses storing agricultural products, thirty of which provide rate regulation (Appendix B). The judgment of the Circuit Court of Appeals for the Seventh Circuit, if allowed to stand, would invalidate or render impotent these many state systems of regulation. The validity of state statutes on the ground of alleged repugnance to the laws of the United States is here presented.

This is a case of first impression. No court has previously passed upon the validity of state regulation of public grain warehousemen in the form of affirmative control of rates, services, practices and financial transactions, in the face of claimed repugnance to the United States Warehouse Act or the Commodity Exchange Act.

The business of public grain warehousemen in the Chicago area has been described as "virtual monopolies". They channel grain to market from the great western producing areas. The services they perform, the rates charged and practices followed are an essential adjunct of the agricultural marketing process. If the judgment of the Circuit Court of Appeals for the Seventh Circuit is allowed to stand, there will be no affirmative regulation of any warehouseman who chooses to acquire a federal license. The court will have invalidated effective and comprehensive state regulation in Illinois and many other states, without being able to transfer the powers of regulation to the Secretary of Agriculture, the administrator of the United States

Warehouse Act. The federal act is merely a federal warehouse receipts act. Congress has not created a utility regulatory statute and has not authorized the exercise of any affirmative regulatory powers.

The Circuit Court of Appeals for the Seventh Circuit has misconceived the doctrine of supersedure and invalidation of state statutes. Apparently the existence of a federal statute in the same general field, even though the precise powers found in state regulation do not exist on the federal level, was held sufficient to strike down the state comprehensive authority. No demonstration of irreconcilable conflict was made.

WHEREFORE, it is respectfully submitted that this petition for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the Seventh Circuit should be granted.

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September 4, 1946.

## BRIEF IN SUPPORT OF PETITION.[3]

### I.

**Federal nullification of state authority results only where a precise coincidence of regulation or an irreconcilable conflict is clearly demonstrated.**

The constitutional power of the state and federal governments separately to regulate public grain warehousemen is not questioned. It has been repeatedly held that public warehouses are matters of local and domestic concern which may be regulated by the states as an exercise of police power: *Munn* v. *Illinois*, 94 U.S. 113, 135 (1876); *Townsend* v. *Yeomans*, 301 U.S. 441, 458 (1937); *Davies Whse. Co.* v. *Bowles*, 321 U.S. 144, 148-9 (1944). We concede that the functions of such public warehouses affect interstate commerce, and therefore Congress may constitutionally invade this otherwise local field to protect such commerce. But Congress has only provided a circumscribed and limited invasion. The questions here presented are: Has Congress by the United States Warehouse Act actually provided regulation of warehousing rates, services and financial transactions so as to enable Rice to find in federal authority the relief prayed before the Illinois Commerce Commission? Has Congress provided for federal regulation exclusively and solely of federal licensed warehouses, to the point of excluding state control, even though the federal act is silent upon the particular subject matter of regulation?

The court is here being asked to strike down all state regulation of federal licensed warehouses, although it is

[3] Statement, jurisdiction and questions presented, which are set out in the petition, will not be repeated here.

conceded that some of the issues raised before the state commission are not within the purview of federal authority. The injunction, we contend, is sought as a means of escaping *all* regulation. There is no problem here of dual or alternative regulation. The secretary is entirely without power to grant any of the relief prayed in the Rice complaint. No such federal regulation and control has been exercised in the thirty years that the federal statute has been in effect. As a consequence, to strike down state authority would be to abolish effective and affirmative regulation of public grain warehouses.

This court has repeatedly held that an intent by Congress to supersede and invalidate the exercise of the state's police power must be clearly manifested and will never be presumed or implied: *Illinois Central R. R. Co.* v. *Public Utilities Commission*, 245 U. S. 493, 510 (1918); *Reid* v. *Colorado*, 187 U. S. 137, 148, 153 (1902); *Railway Mail Assn.* v. *Corsi*, 326 U. S. 88, 97 (1945). In determining whether the federal act supersedes an otherwise valid exercise of state powers, this court has required that there be a precise coincidence of federal and state regulatory control, or in the absence of federal authority over the precise subject matter, then state authority will be superseded by federal action only if there exists a repugnance or conflict between the two acts so "direct and positive" that they cannot be "reconciled or consistently stand together." Congress may regulate in the general field, but may circumscribe its authority and occupy only a limited portion of that field. In that event the states are free to regulate outside the limited field subject to federal authority: *Sinnot* v. *Davenport*, 22 How. (U. S.) 227, 243 (1859); *Kelly* v. *Washington*, 302 U. S. 1 (1937); *Townsend* v. *Yeomans*, 301 U. S. 441, 454 (1937); *Savage* v. *Jones*, 225 U. S. 501, 532-3 (1912); *Southern Pacific Co.* v. *Arizona*, 325 U. S. 761 (1945).

The Circuit Court assumes that even though express authority is not granted the federal agency, such authority will be implied and will serve to supersede expressly granted state powers. (Rec. 122) But this view, we contend, misconceives the principles governing the interrelations of state and federal authority, and does violence to the oft announced doctrine that administrative agencies may exercise only such powers as are expressly delegated.

## II.

### The federal act is limited and circumscribed in its provisions, scope and purpose.

Congress enacted the United States Warehouse Act in 1916 for the purpose of establishing a warehouse receipt which would be accepted as collateral on loans. The act in nature, form and intent is essentially and solely a federal warehouse receipt act. Its aim was to avoid certain gross dishonesties that had been previously practiced by warehousemen, such as the issuance of receipts without the products having been stored, failure to cancel receipts after having made delivery, or returning an inferior grade or smaller quantity of the stored commodity.

The act was not intended to and does not constitute a utility regulatory statute. There is a complete absence of any delegation of affirmative regulatory authority to the secretary. The federal act fails to deal with the following subjects, which are of fundamental importance to any regulatory system:

a. No authority is granted to issue regulatory orders and directives.

b. No requirements are made for the preparation of findings of fact by the secretary.

c. The act contains no legislative standards governing administrative policy.

d. No general power is delegated to the secretary to conduct hearings.

e. No provision is made for rehearings or for judicial review.

The method employed by Congress to carry out its objective furnishes a key to the highly circumscribed character of federal authority. The limited control exercised by the United States Warehouse Act is acquired through the issuance of a *voluntary* or *permissive* license. No warehouseman, even though exclusively storing grain for interstate commerce, is required to secure a license to conduct his operations, but if he so desires, he may apply for and obtain such a license. The only sanction that can be applied under the act is publication of the results of an investigation or suspension or revocation of a license. In the latter event, a warehouseman is entirely free to conduct his business, even under the very terms which led to revocation, without a federal license.

We fail to see how a permissive or voluntary federal licensing system could nullify any state requirement, for in that event state sovereignty would not be nullified by Congress, but by the whim of the warehouseman.

This court on several occasions has referred to the United States Warehouse Act as a limited and circumscribed statute which afforded only a "measure of control": *Federal Compress & Whse. Co.* v. *McLean*, 291 U. S. 17, 22-3 (1934); *United Brokerage Co.* v. *Jensen*, 322 U. S. 202, 207-8 (1944); *Townsend* v. *Yeomans*, 301 U. S. 441, 457 (1937).

The principal reliance of the warehousemen for their position that the federal act is exclusive and precludes any state regulation over federal licensed warehouses is Section 29 of the United States Warehouse Act, as amended in 1931, which reads:

> "Sec. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. * * *"

But this section cannot be distorted to achieve the results sought. First, the opening phrase of the section expressly provides that the secretary may cooperate with state officials charged with the enforcement of state warehouse laws. By this provision recognition is given to the continued existence of state laws which would operate upon federally licensed warehousemen, and thus provide an opportunity for cooperation. This plain language negatives any alleged congressional intent to preempt the entire field and exclude the states. A similar preservation of state authority is made in Section 20 of the act.

Second, the reference to the exclusive power and authority of the secretary is limited to the authority "conferred * * * under this Act". In other words, specific matters of control which have been delegated to the secretary are dominant and supreme in case of conflict with state authority. But this language cannot be expanded to grant the secretary exclusive regulatory power over all phases of warehousing operations and all manner of regulatory problems, even though the power was not delegated to the secretary. This clause was given its limited and obvious meaning in *U. S.* v. *Hastings*, 296 U. S. 188, 199 (1935), where this court said:

> "While the amendment asserts the exclusive authority of the Secretary of Agriculture, it has relation to the authority conferred by the Act, * * *."

Third, the 1931 amendment did not add any regulatory provisions affecting warehouses. The secretary's jurisdiction was not broadened one whit. Certainly, with forty-one states regulating in the field, Congress would have plainly and expressly provided for invalidation of state regulation if that had been its intent, and would have broadened federal authority. At least Congress would have carefully considered the issue and debated the question, but the legislative history is devoid of any such consideration or debate. The committee reports on the 1931 amendments were unanimous and the debate cursory.[4]

Prior to the amendment the federal authority was entirely subservient to state warehouse regulation, and in case of conflict the statute specifically required that the federal act give way. Under such circumstances the minimum federal requirements for the establishment of dependable warehouse receipts could be and were destroyed by state laws which permitted loose practices. The limited purpose of the 1931 amendment was to reverse this situation and restore the normal dominance of federal authority where expressly granted and exercised.

There is a complete absence of federal power to grant the specific regulatory relief prayed. The warehousemen's position is based not upon a coincidence of state and federal authority, but upon claimed conflict with the policies allegedly sought to be accomplished by the federal act. We do not believe it can be seriously argued that effective state utility regulation would infringe upon the policy of the United States Warehouse Act in promoting the integrity of warehouse receipts. The federal act assures that a receipt holder will have grain of a contract grade in store

[4] 72 Cong. Rec. Pt. 8 p. 8530; 72 Cong. Rec. Pt. 8 p. 8529; 74 Cong. Rec. Pt. 6 p. 6138; S. Rept. No. 1775 to 71 Cong. 3rd Sess.; H. Rept. 4 to 71st Cong. 1st Sess.

when called for, but the state act affords additional protection in the public interest—the fixing of fair and nondiscriminatory rates through the regulatory rate making process, the elimination of discriminatory practices, the assurance and preservation of adequate and safe service and facilities, the prevention of abandonment of essential public services and the protection of the financial strength of these warehousing institutions. Such state activity clearly furthers the underlying congressional purpose, and in no respect can be construed as "plainly and palpably infringing upon federal policies".

## III.

### The major state regulatory issues invoked.

A. *Enforce state provisions requiring prior commission approval of: (1) Contracts and arrangements with affiliates and other utilities; (2) sales, leases and encumbrances of utility properties or assets; (3) security issues.*

Such regulation has for its purpose the prevention of unwarranted drains on utility funds or the creation of onerous financial structures which would exert financial pressure upon the utility and thus affect its ability to render adequate service at reasonable rates. The warehousemen concede that no comparable authority is contained in the United States Warehouse Act.

The Circuit Court, while recognizing this fact, superseded state regulation with the following remarks (Rec. 122):

> "While we find nothing in the Act which expressly relates to such matters, we think, for the reasons already stated, that the Secretary has implied authority to deal therewith."

State authority is thus nullified, although federal regulation is completely absent, a holding which violates the oft-announced principles of supersedure.

B. *Fix and determine just and reasonable rates:*

The warehousemen concede that Congress has not delegated authority to the secretary to establish and determine rates. The federal act is devoid of any language even remotely delegating rate making powers. The importance of the function and the traditional language used for such delegations over a period of many years prevents the implication of such powers where not specifically and expressly provided: *Interstate Commerce Commission* v. *Cincinnati, etc. R. Co.*, 167 U. S. 479, 505-6 (1897). The detailed and positive Illinois provisions granting not only the power to fix and determine reasonable rates, but surrounding that power with the collateral functions necessary to its effective exercise, are an example of actual rate making delegations.

The claim is made that despite this lack of rate making power in the secretary, state control is nevertheless superseded since the secretary is authorized to revoke or suspend a warehouseman's license "upon the ground that unreasonable or exorbitant charges have been made for services rendered". (Section 25) To implement this provision, regulations were adopted requiring licensees to file a copy of their rates and any changes therein with the secretary.

A rate on file is not a rate approved or determined by the administrative agency: *Interstate Commerce Commission* v. *Cincinnati, etc. R. Co.*, 167 U. S. 479 (1897); *Cleveland* v. *Hope Natural Gas Co.*, 44 P.U.R. (n.s.) 1, 33 (F.P.C. 1942). No conflict with the existing positive state rate making powers exists. The secretary may revoke a license

because an exorbitant rate was charged in the past. The secretary cannot determine and prescribe what will constitute a reasonable rate for the future. In fact, the secretary is entirely without any affirmative powers. He is not authorized to issue any order or directive under any circumstance, except that he may revoke a voluntary license. If a license is revoked, the warehouseman is still free, so far as federal authority is concerned, to conduct his business and charge whatever rate he chooses. No federal penalties are provided. The secretary can only take back his voluntary and permissive license.

But what if the state, acting pursuant to the Rice complaint, reduced storage rates? The federal regulation—not the statute—requires storage rates and changes therein to be filed. There is no conflict. The warehousemen can freely comply with the federal regulation by performing the purely administrative function of filing the newly prescribed rate with both the federal and state agencies. It is unreasonable to assume, as the Court of Appeals does (Rec. 119), that the state utility commission would fix a rate which the secretary would consider exorbitant. The prayer in this proceeding is for a reduced rate. The assumption contemplates that the state, with its elaborate statutory machinery and expert utility regulatory staff, would not fix just and reasonable rates; moreover it assumes that the secretary would do so, even though he has never regulated rates, and is neither equipped nor has the statutory authority to perform such a function.

C. *Enforce the state constitutional provision against occupying the dual and conflicting positions of public grain warehouseman and at the same time grain dealer.*

Because public warehousemen have been in direct competition with their storage customers, innumerable forms

of discrimination and self-preference have been evolved. The vice of duality of functions by quasi-public institutions has long been recognized as against public policy, as witness the separation of railroads from commercial enterprises competing with their shippers.

Federal sanction is allegedly found by the warehousemen in Section 18 of the federal act, which prescribes the contents of warehouse receipts and requires the fact of ownership of grain by the warehouseman to be shown. This provision does not constitute federal authorization to public warehousemen to deal in grain. The fact of ownership of grain by the warehouseman himself was merely recognized as a *suspicious circumstance* which had to be noted as additional protection to the receipt holder. No direct and positive federal approval exists to raise an irreconcilable conflict with the state prohibition.

Even where the federal government permits a practice, state prohibitions, based upon sound public policy, have been sustained in the face of claimed supersedure: *Dickson* v. *Uhlmann Grain Co.*, 288 U. S. 188 (1933); *Minnesota, ex rel. Whipple* v. *Martinson*, 256 U. S. 41 (1921).

D. *Eliminate discriminatory rates and practices.*

Serious discriminatory rates and practices of an unethical and unbusinesslike character are sought to be prevented. The state commission is fully equipped and legislatively empowered to deal with these issues. The warehousemen rely almost entirely upon Section 13 of the United States Warehouse Act to nullify this express and affirmative state regulation. That section reads:

> "That every warehouseman conducting a warehouse licensed under this Act shall *receive* for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him

*which may be tendered* to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, *without making any discrimination between persons desiring to avail themselves of warehouse facilities.*" (Emphasis supplied.)

Obviously only one requirement is imposed, and that is that the warehousemen accept grain for storage if space exists, without discriminating between those who want storage space. The word "receive" is the only word of command, and "discrimination" refers only to the unfair refusal to store grain tendered. All other forms of discrimination are left untouched. In any event, while a requirement may be imposed upon the warehouseman, concededly the secretary is not granted the affirmative authority to eliminate any form of discrimination. He cannot fix and determine rates or practices that are fair and nondiscriminatory. No conflict between the two systems exists.

E. *Establish safe, adequate and efficient public grain warehousing service and facilities.*

The state commission was requested to compel the establishment of safe and adequate warehousing service and facilities, and to order improvements in such service and facilities—a function which is positively delegated by the state statute. It is urged supersedure results by the grant to the secretary by Section 3 of the right to determine whether the warehouse for which a permissive license is sought is "suitable" for the proper storage of agricultural products. "Suitable," as Section 4 clearly demonstrates, means fit for the storage of the particular agricultural product involved—that is, grain, cotton or tobacco, etc. The adequacy of warehousing service, the right to require improvements in such service and facilities, is not dealt with in the federal act.

It is also contended that federal power is found in the authorization to the secretary:

> "* * * to prescribe within the limitations of this Act, the duties of the warehousemen * * * with respect to their care of and responsibility for agricultural products stored therein."

This delegation is clearly limited to further the integrity of warehouse receipts, and not to prescribe standards of service and improvements of facilities.

In any event, no claim is made that the secretary can compel changes and improvements in service or facilities. It is only urged that the existing warehouses have been approved. This limited federal function, even if it exists, is not in conflict with the affirmative authority granted the state commissions to *order and direct safe,* adequate, proper and improved services. Conclusive on this point is *Atchison, T. & S. F. R. Co.* v. *Railroad Commission,* 283 U. S. 380, 390, 392-3 (1931), where a sharp distinction was made between the power of a state commission to *require or compel* the improvement of service (construction of a union terminal), and the lesser requirement of federal commission *approval* before the project is instituted. Federal control in that case was held by this court not to supersede state affirmative regulation.

F. *Prevent unwarranted abandonment of public grain warehouse service and capacity.*

An application to the state commission must be made and approval secured before utility services may be abandoned. No state authority exists to compel abandonment. While no federal control on this issue exists, the warehousemen urge that the secretary's power to suspend or revoke a license requires state supersedure. The Court of Appeals holds that where a federal warehouseman de-

sires to abandon his service, "he could only do so by satisfying the bond and surrendering his license", then "control would revert to the state". (Rec. 122) In other words, if a warehouse is abandoned, a license is revoked or suspended and then state control takes hold. But the warehouse service is gone—there is nothing and nobody to regulate. The public's interest in the maintenance of adequate public grain warehousing service is irreparably prejudiced.

The federal act contains no provisions comparable, and certainly none which conflicts with the invoked state authority.

## Conclusion.

It is respectfully submitted that the public interest will be promoted by the granting of this petition and the decision by this court of the question involved.

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September 4, 1946.

# APPENDIX A.

## UNITED STATES WAREHOUSE ACT.

[39 United States Statutes at Large, page 486, as amended July 25, 1919, February 23, 1923, and March 2, 1931.]

That this Act shall be known by the short title of "United States warehouse Act."

SEC. 2. That the term "warehouse" as used in this Act shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this Act, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

SEC. 3. That the Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this Act, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this Act; to determine whether warehouses for which licenses are applied for or have been issued under this Act are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this Act; and to prescribe, within the limitations of this Act, the duties of the warehousemen conducting warehouses licensed under this Act with respect to their care of and responsibility for agricultural products stored therein.

SEC. 4. That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or

warehouses in accordance with this Act and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 5. That each license issued under Sections 4 and 9 of this Act shall terminate as therein provided, or in accordance with the terms of this Act and the regulations thereunder, and may from time to time be modified or extended by a written instrument.

SEC. 6. That each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

SEC. 7. That any person injured by the breach of any obligation to secure which a bond is given, under the provisions of Sections 6 or 9, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

SEC. 8. That upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond,

in compliance with this Act, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this Act, and no name or description conveying the impression that it is so bonded shall be used until a bond, such as provided for in Section 6, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this Act for the conduct of such warehouse remains unsuspended and unrevoked.

SEC. 9. That the Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products, and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this Act and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this Act, and the rules and regulations hereunder affecting warehousemen licensed under this Act, and shall otherwise be subject to this Act, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

SEC. 10. That the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this Act when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the provisions of this Act, the Secretary of Agriculture, or his designated representative; may charge, assess, and cause to be collected a reaonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts.

SEC. 11. That the Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this Act, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and

the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Act and of the rules and regulations prescribed hereunder so far as the same relate to him.

SEC. 12. That any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this Act or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 13. That every warehouseman conducting a warehouse licensed under this Act shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

SEC. 14. That any person who deposits agricultural products for storage in a warehouse licensed under this Act shall be deemed to have deposited the same subject to the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 15. That any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act shall be inspected and graded by a person duly licensed to grade the same under this Act.

SEC. 16. That every warehouseman conducting a warehouse licensed under this Act shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and

grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

SEC. 17. That for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

SEC. 18. That every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of

such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by a depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, The Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

SEC. 19. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority of any other Act of Congress shall be, and are hereby, adopted for the purposes of this Act as the official standards of the United States for the agricultural products to which they relate.

SEC. 20. That while an original receipt issued under this Act is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this Act.

SEC. 21. That a warehouseman conducting a warehouse licensed under this Act, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored

therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipts; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgment that they have been delivered if such signature is requested by the warehouseman.

SEC. 22. That a warehouseman conducting a warehouse licensed under this Act shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

SEC. 23. That every warehouseman conducting a warehouse licensed under this Act shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this Act and the rules and regulations made hereunder.

SEC. 24. That the Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this Act. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this Act and the rules and regulations made hereunder, the Secretary may publish his findings.

SEC. 25. That the Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 26. That the Secretary of Agriculture from time to time may publish the results of any investigations made under Section

3 of this Act; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this Act and lists of all licenses terminated under this Act and the causes therefor.

SEC. 27. That the Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this Act and of the warehousemen conducting such warehouses relating thereto.

SEC. 28. That the Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.

SEC. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This Act shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

SEC. 30. That every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this Act, or who shall violate or fail to comply with any provision of Section 8 of this Act, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this Act or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $10,000, or double the value of the products involved if such double value exceeds $10,000, or imprisoned not more than ten years, or both, in the discretion of the court,

and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture, for the value of such products to the extent that such owner has not otherwise been reimbursed. That any person who shall draw with intent to deceive, a false sample of, or who shall wilfully mutilate or falsely represent a sample drawn under this Act, or who shall classify, grade, or weigh fraudulently, any agricultural product stored or to be stored under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than $500, or imprisoned for not more than six months, or both, in the discretion of the court.

SEC. 31. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $50,000, available until expended, for the expenses of carrying into effect the provisions of this Act, including the payment of such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, and he is authorized, in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this Act, and out of the moneys appropriated by this Act to pay the salaries and expenses thereof.

SEC. 32. That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 33. That the right to amend, alter, or repeal this Act is hereby expressly reserved.

## COMMODITY EXCHANGE ACT.

### Section 5(a)(7) (49 Stat. 1491).

"Each contract market shall—

* * *

"require that receipts issued under the United States Warehouse Act (U. S. C., 1934 ed., title 7, secs. 241-273) shall be accepted in satisfaction of any futures contract, made on or subject to the rules of such contract market, without discrimination and notwithstanding that the warehouseman issuing such receipts is not also licensed as a warehouseman under the laws of any State or enjoys other or different privileges than under State law: *Provided, however,* That such receipts shall be for the kind, quality, and quantity of commodity specified in such contract and that the warehouse in which the commodity is stored meets such reasonable requirements as may be imposed by such contract market on other warehouses as to location, accessibility, and suitability for warehousing and delivery purposes."

## APPENDIX B.

### List of States which Provide Warehouse Regulation

| State | Statute | Type of Warehouse | Rate Regulation |
|---|---|---|---|
| Alabama | Code (1940) Title 2 Secs. 568 et seq. | Cotton and other articles of value. | |
| Arizona | Code (1939) Secs. 52-901 to 52-905 | Cotton, wool. | |
| Arkansas | Dig. Stat. (Pope, 1937) Secs. 14374 et seq. | Grain and others. | x |
| California | Gen. Laws (Deering 1937) Act. No. 6386, Secs. 1 et seq. | Grain and others. | x |
| Delaware | Rev. Code (1935) Secs. 831 et seq. | Food. | |
| Georgia | Code (1933) Secs. 5-301 et seq. 93-317; 111-1 et seq. | Grain, cotton and others. | x |
| Idaho | Code Ann. (1932) Secs. 67-202 et seq. | Grain and others. | x |
| Illinois | Ill. Rev. Stat. (1945) Ch. 111⅔, Sec. 10; Secs. 119 et seq.; Ch. 114, Sec. 189 et seq. | Grain, food, personal property. | x |
| Indiana | Stat. Ann. (Burns, 1933) Secs. 67-201 et seq.; 67-512 | Grain and others. | x |
| Iowa | Laws (1943), Ch. 246 Sec. 1 et seq. | Grain and others. | x |
| Kansas | Gen. Stat. Ann. (1935) Secs. 34-101, 223 et seq. | Grain and others. | x |
| Kentucky | Rev. Stat. (1944), Secs. 248.010 et seq.; 251.010 et seq.; 359.140. | Grain, tobacco. | x |
| Louisiana | Gen. Stat. (Dart's, 1939) Secs. 9855 et seq.; 9934 et seq. | Grain and others. | x |
| Maine | Rev. Stat. (1944), Ch. 40, Sec. 15, et seq. | Grain and others. | x |
| Maryland | Code. Ann. (Flack, 1939) Art. 43, Sec. 221; Art. 48, Secs. 42, et seq. | Food and tobacco. | |
| Massachusetts | Ann. Laws (1933) Ch. 105, Secs. 1 et seq. | Personal property. | |
| Michigan | Stat. Ann. (1937), Secs. 19.491 et seq. | Grain and others. | |
| Minnesota | Stat. (1941) Secs. 231.01 et seq.; 232.01 et seq.; 233.01 et seq. | Grain and others. | x |
| Missouri | Rev. Stat. Ann. (1944), Secs. 14685.24; 15476 et seq. | Grain and others. | x |
| Montana | Rev. Code (1935), Secs. 3579, 3585 et seq. | Grain and others. | x |

| State | Statute | Type of Warehouse | Rate Regulation |
|---|---|---|---|
| Nebraska | Rev. Stat. (1943), Secs. 88-201 et seq. | Grain and others. | x |
| Nevada | Comp. Laws (1929), Secs. 6106 et seq. | Grain and others. | x |
| New Hampshire | Rev. Laws (1942), Ch. 205, Secs. 1 et seq. | Goods, wares and merchandise. | |
| New Jersey | Stat. Ann. Secs. 24:9-1 et seq. | Food. | |
| New Mexico | Stat. Ann. (1941), 53-901 et seq. | Grain and others. | |
| New York | Laws of N. Y. (Thompson, 1939) Gen. Bus. Laws, Sec. 396, Agri. & M., Sec. 230(2), Alco Bev. Co. 3 (38). | Grain in cities of over 100,000 and others. | x |
| North Carolina | Gen. Stat. (1943) Secs. 106-430 et seq.; 106-452 et seq. | Cotton, leaf tobacco. | x |
| North Dakota | Rev. Code (1943), Ch. 60-02. | Grain and others. | x |
| Ohio | Gen. Code Ann. (Page, 1937) Secs. 1155-7, 6041. | Tobacco, food. | |
| Oklahoma | Stat. (1941) Tit. 81 Secs. 1 et seq. | Grain and others. | x |
| Oregon | Comp. Laws (1940) Secs. 60-302 et seq. | Grain and others. | x |
| Pennsylvania | Pa. Stat. (Purdon, 1936) Tit. 31, Sec. 952. | Food. | |
| South Carolina | Code of Laws (1942), Secs. 6466 et seq., 7197. | Cotton, tobacco. | x |
| South Dakota | Code (1939) Secs. 52.201, 60.0304 et seq., Law (1945) Ch. 245, Sec. 1. | Grain and others. | x |
| Tennessee | Code Ann. (Williams, 1934) Secs. 6476, 6498. | Tobacco. | x |
| Texas | Stat. (Vernon, 1936), Arts. 5568, 5601. | Grain and others. | x |
| Utah | Code Ann. (1943), Titles 76-2-1, 76-3-1. | Grain and others. | x |
| Virginia | Code (1942), Ch. 51A, Sec. 1228(b); Ch. 58, Sec. 1348 et seq. | Food and tobacco. | x |
| Washington | Rev. Stat. Ann. (Remington, 1933), Secs. 6987 et seq.; 11569 et seq. | Grain and others. | x |
| Wisconsin | Stat. (1943), Secs. 100.13, Laws (1945), Ch. 443. | Grain and others. | x |
| Wyoming | Rev. Stat. (1931), Secs. 5-602 et seq.; Supp. (1940), Sec. 5-1307; Laws (1943), Ch. 12, Secs. 1, 7. | Grain and others. | x |
| | Totals | 41 | 30 |